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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,572	04/18/2005	Takashi Kenmoku	03500.017652.	2325

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FITZPATRICK CELLA HARPER & SCINTO
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EXAMINER

HANLEY, SUSAN MARIE

ART UNIT	PAPER NUMBER
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1651

MAIL DATE	DELIVERY MODE
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12/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/531,572	Applicant(s) KENMOKU ET AL.	
	Examiner SUSAN HANLEY	Art Unit 1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-35 is/are allowed.
- 6) ☒ Claim(s) 21 and 24 is/are rejected.
- 7) ☒ Claim(s) 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 21-35 are under examination.

Withdrawal of Rejections

The rejections not explicitly restated below are withdrawn due to Applicant's response in the amendment filed 9/16/09.

Double Patenting

Claims 21 and 24 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 15 of U.S. Patent No. 6,911,520.

Claims 21 and 24 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of U.S. Patent No. 6,908,721.

Claims 21 and 24 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,645,743.

Claims 21 and 24 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,649,380.

Applicant argues that the filing of a terminal disclaimer at this time is premature and expensive.

Applicant's argument is not directed to the factual basis of the rejection and is, therefore, non-persuasive. The rejections stand for the reasons of record.

Claims 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims Suggestions

The following claims suggestions are made:

In claim 21, at line 5, it is suggested that the phrase “wherein x is one or more integers within” be replaced by “wherein x is an integer within”.

In claim 22, at line 2, it is suggested that “further” be inserted before “comprising”.

In line 22, at line 5, it is suggested that the phrase “wherein y and z are one or more integers within” be replaced by “wherein y and z are integers within”.

In claim 23, at line 2, it is suggested that the phrase “claim 21, comprising simultaneously, in at least” be replaced by “claim 21, further comprising, in at least”.

In claim 23, at line 8, it is suggested that the phrase “wherein k is one or more integers within” be replaced by “wherein k is an integer within”.

In claim 23, at line 10, it is suggested that the phrase “wherein m is one or more integers within” be replaced by “wherein m is an integer within”.

In claim 25, at line 5, it is suggested that the phrase “wherein x is one or more integers within” be replaced by “wherein x is an integer within”.

In claim 25, at line 13, it is suggested that the phrase “wherein x is one or more integers with” be replaced by “wherein x is an integer within”.

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In claim 26, at line 3, it is suggested that “further” be inserted before “comprises”.

In line 26, at line 5, it is suggested that the phrase “wherein y and z are one or more integers within” be replaced by “wherein y and z are integers within”.

In claim 28, at line 3, it is suggested that “polyhydroxyalkanoate comprising simultaneously, in at least” be replaced by “polyhydroxyalkanoate further comprising, in at least”.

In claim 28, at line 9, it is suggested that the phrase “ wherein m is one or more integers within” be replaced by “wherein m is an integer within”.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUSAN HANLEY whose telephone number is (571)272-2508. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susan Hanley/
Examiner, Art Unit 1651

/Sandra Saucier/
Primary Examiner, Art Unit 1651